

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MY HOME NOW, LLC,)
Plaintiff,) Case No.: 2:16-cv-00727-GMN-NJK
vs.)
AMENDED ORDER
JP MORGAN CHASE BANK, N.A., *et al.*,)
Defendants.)

AMENDED ORDER

On January 26, 2018, the Court granted summary judgment to Defendant JP Morgan Chase, N.A. (“Defendant”) because, under *Bourne Valley Court Trust v. Wells Fargo Bank*, N.A., 832 F.3d 1154 (9th Cir. 2016), the Summerhills Condominiums Unit 1 (“HOA”) “foreclosed under a facially unconstitutional notice scheme” and therefore the “foreclosure sale cannot have extinguished” Plaintiff’s deed of trust on the property. (Order 15:11–13, ECF No. 84). The Ninth Circuit has since held, however, that Nevada’s homeowner’s association foreclosure scheme is not facially unconstitutional because the decision in *Bourne Valley* was based on a construction of Nevada law that the Nevada Supreme Court has since made clear was incorrect. See *Bank of Am., N.A. v. Arlington W. Twilight Homeowners Ass’n*, 920 F.3d 620, 624 (9th Cir. 2019) (recognizing that *Bourne Valley* “no longer controls the analysis” in light of *SFR Investments Pool I, LLC v. Bank of New York Mellon*, 422 P.3d 1248 (Nev. 2018)). Moreover, for orders from this district that relied on *Bourne Valley Court Trust v. Wells Fargo Bank*, N.A., 832 F.3d 1154 (9th Cir. 2016), and were thereafter appealed, the Ninth Circuit recently began reversing and remanding such orders in light of *Bank of Am., N.A. v. Arlington W. Twilight Homeowners Ass’n*, 920 F.3d 620, 624 (9th Cir. 2019). See, e.g., *U.S. Bank, N.A. v.*

¹ *SFR Investments Pool 1, LLC*, No. 18-16006, 2019 WL 6817304, at *1 (9th Cir. Dec. 13, 2019).

To preserve judicial resources, the Court expresses its willingness to reconsider or vacate its prior Order, (ECF No. 84).¹ Moreover, the Court has received the parties' Notice of Settlement, (ECF No. 95), indicating "that a settlement has been reached in this action." Accordingly, if the Court of Appeals for the Ninth Circuit remands this case in light of this Order,

8 **IT IS HEREBY ORDERED** that the parties shall have thirty (30) days from the date of
9 remand to file a stipulation of dismissal or a joint status report explaining why dismissal
10 documents have not been filed.

11 **IT IS FURTHER ORDERED** that the Court's prior Order, (ECF No. 94), is now
12 amended to conform with this Order.

13 The Clerk of Court shall reopen the case and deliver a copy of this Order to the United
14 States Court of Appeals for the Ninth Circuit, Appeal Number 18-15152.

15 DATED this 26 day of December, 2019.

Gloria M. Navarro, District Judge
United States District Court

²² The Court previously vacated its Order, (ECF No. 84), through a later Order filed on December 18, 2019. (See
²³ Order, ECF No. 94). However, because this Court lacks jurisdiction over the aspects of the case properly
²⁴ involved in the current appeal, the Court now **AMENDS** the December 18, 2019 Order, (ECF No. 94), in part to
²⁵ indicate the Court’s willingness to reconsider or vacate the prior judgment upon remand pursuant to Federal Rule
of Civil Procedure 62.1. *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (holding that the
filing of a notice of appeal “confers jurisdiction on the court of appeals and divests the district court of its control
over those aspects of the case involved in the appeal”); *Mendia v. Garcia*, 874 F.3d 1118, 1121 (9th Cir. 2017)
(remanding to district court to permit reconsideration of the judgment pursuant to Fed. R. Civ. P. 62.1 and Fed.
R. App. P. 12.1).